

MYTHS  
*of Pretrial Detention  
in Mexico*

## About the Open Society Justice Initiative project on pretrial detention in Mexico

In Mexico, the Open Society Justice Initiative seeks to reduce the excessive use of pretrial detention and strengthen the presumption of innocence.

In 2004, the Justice Initiative undertook a three-year project to reduce and rationalize the use of pretrial detention in Mexico and to promote noncustodial alternatives. The project was developed in collaboration with a Mexican organization, Renace ABP, based in Monterrey, Nuevo León. For many years Renace has provided a bail supervision program, and offered financial assistance to accused persons who cannot afford to pay their bail, as well as legal advice, counseling, and representation to detainees.

The project has also undertaken a cost-benefit analysis of the current Mexican pretrial detention regime and existing noncustodial alternatives to pretrial detention. The analysis involves cataloguing the actual number of prisoners facing trial in both federal and state prisons. Detailed information is also being gathered to determine the length of time detainees are imprisoned, the crimes of which they are accused, and the financial cost of the pretrial detention system in Mexico, both for the government and taxpayers.

Finally, the Justice Initiative seeks to raise awareness among the general public of the social costs of pretrial detention on the lives and opportunities of pretrial detainees and their families. This will be accomplished by compiling personal stories of a wide variety of individuals who were detained awaiting trial over long periods of time, convicted of minor crimes, released without charges ever being brought against them, or even acquitted of all charges.

## About the Pretrial Detention Monograph Series

This monograph is the first of a series on pretrial detention commissioned by the Open Society Justice Initiative.

The present monograph provides a critical analysis of the most common arguments—or myths—used to justify the excessive, inhuman and irrational use of pretrial detention in Mexico. The monograph seeks to disprove these myths and to contribute to the debate on pretrial detention and public security, in order to raise awareness within Mexican society of the seriousness of the country's pretrial detention problem and restrict its use to only the most necessary cases.

The monograph has been written for a broad audience, including legislators, police officers, prosecutors, judges, lawyers, journalists, and nongovernmental organizations, as well as the general public. It summarizes one component of the extensive research conducted by Guillermo Zepeda Lecuona of CIDAC-Guadalajara, within the framework of the Justice Initiative's pretrial detention project. This publication was coordinated by Ina Zoon, in collaboration with Martin Schönteich and Benjamin Naimark-Rowse of the Justice Initiative, Javier Carrasco, a Justice Initiative Fellow, and Martin Carlos Sánchez Bocanegra, Director General of Renace-Abp.

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MYTHS  
*of Pretrial Detention  
in Mexico*

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## “Myths of Pretrial Detention in Mexico”

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His most recent book is *Crimen sin castigo: Procuración de justicia penal y ministerio público en México* (*Crime Without Punishment: Criminal law enforcement and the prosecution service in Mexico*) published by Fondo de Cultura Económica and CIDAC in 2004.

Professor Zepeda is presently working on a cost-benefit analysis of pretrial detention in Mexico for the Open Society Justice Initiative.

# TABLE OF CONTENTS

Introduction	6
Myth 1: Pretrial detention reduces crime	9
Myth 2: Pretrial detention makes citizens feel more secure	11
Myth 3: Pretrial detention is used only against “dangerous” individuals	13
Myth 4: Pretrial detention ensures compensation for victims of crimes	17



# MYTHS OF PRETRIAL DETENTION IN MEXICO

## Introduction

The manner in which pretrial detention is applied in Mexico is illegal, excessive, unjust, and costly. It is illegal because it goes against constitutional and international legal principles. It is excessive because it is used extensively and indiscriminately by the authorities. In Mexico **nearly half of all “suspects” are incarcerated awaiting trial**. As of November 2004, almost 82,000 people were detained pending the conclusion of an investigation and trial. These detainees constitute 42.7 percent of all persons in prison (Chart 1). Moreover, the use of pretrial detention is becoming more prevalent—the number of unsentenced prisoners has been growing constantly for the last 10 years (Chart 2).

Pretrial detention is often applied unjustly in Mexico. Every year, over 40,000 imprisoned people, one of every four people charged with a crime, are acquitted by the courts and released. Yet, many of these detainees lose their jobs, suffer from poor health, and are isolated from their families as a consequence of their detention.

In addition to its illegal, excessive, and unjust application, pretrial detention imposes high human, social, and economic costs on society and the state. The conditions of imprisonment in Mexico are inhuman. On average, Mexican prisons have occupancy rates of around 125 percent of their

capacity. In extreme cases, primarily in prisons used for pretrial detainees, occupancy rates are in excess of 270 percent. Overcrowding leads to the formation of criminal prison gangs, violence (the homicide rate among prisoners is up to 10 times that of the general population), and dangerous and unsanitary living conditions. Today, Mexican prisons are like warehouses where human beings are stored without being rehabilitated.

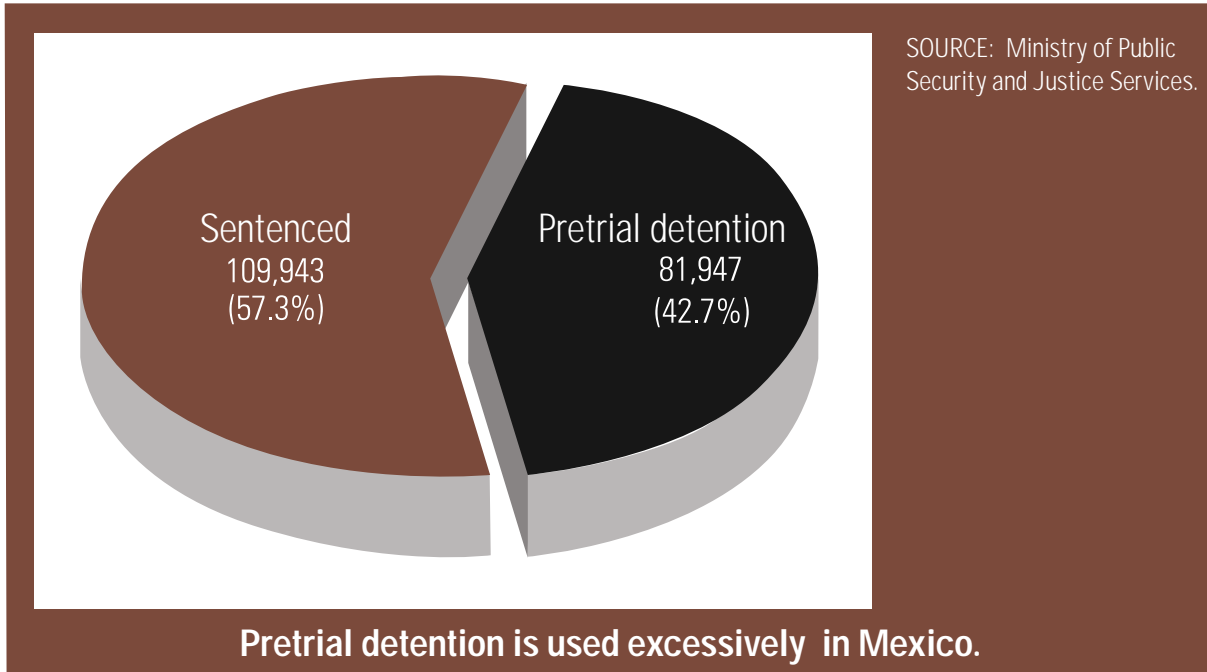


Prison overcrowding fosters vigilantism, idleness, violence, and disease.





Chart 1. Mexico's prison population, 2004

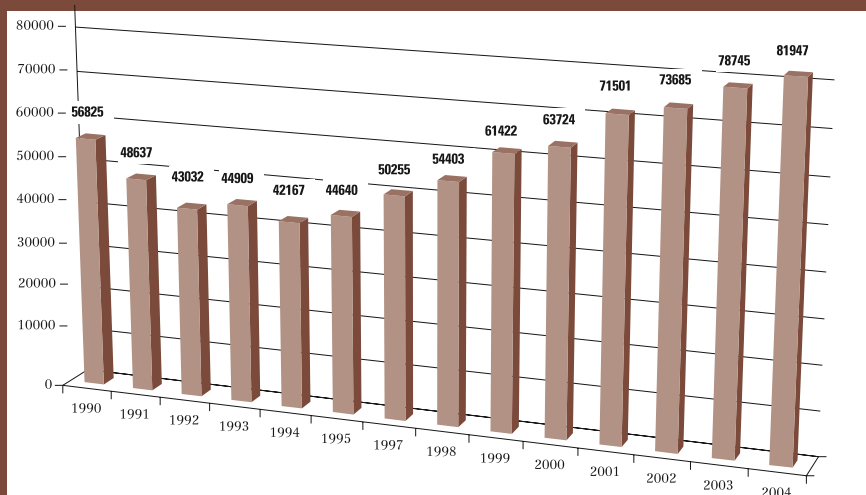


Society pays for pretrial detention in two ways. First, the social and economic contributions of the thousands of people who are incarcerated are lost. Second, the cost of the infrastructure and upkeep of 82,000 people in prison must be paid from tax revenues. It is estimated that the cost of feeding and clothing one prisoner in Mexico is over U.S. \$ 7 per day (excluding prison staff's salaries and maintenance costs). This translates to a daily cost of nearly U.S. \$ 600,000 for the country as a whole.

In spite of this evidence, Mexican society has remained indifferent to what Elías Carranza, Director of the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders, or ILANUD, has called "prison genocide," and to the injustice of pretrial detention. The authorities consider pretrial detention to be a necessary evil and try to justify the magnitude of this practice—which goes against constitutional and international law principles—as a public security measure. Yet this claim is unsupported by the evidence.



Chart 2. Number of unsentenced prisoners in Mexico



SOURCE: Ministry of Public Security and Justice Services. Data unavailable for 1996. Data for 2004 to third quarter only.

In ten years, the number of people who have to endure pretrial detention has doubled.

This monograph explores four arguments—or myths—invoked widely by the Mexican authorities to justify the continued and widespread use of pretrial detention as the backbone of criminal justice policy. Both empirical evidence and the analysis now being conducted as part of the Open Society Justice Initiative’s pretrial detention project in Mexico show the arguments to be unfounded. These four myths are that:

- Pretrial detention reduces crime
- Pretrial detention makes citizens feel more secure
- Pretrial detention is used only against “dangerous” individuals
- Pretrial detention ensures compensation for the victims of crime

Several other myths or falsehoods about pretrial detention are common in Mexico, including:

- Pretrial detention is a necessary evil in the fight against crime
- Pretrial detention is the only effective means to prevent accused persons from absconding
- The threat of pretrial detention deters potential criminals from breaking the law

All these myths seek to convince the public to ignore the social tragedy of tens of thousands of human beings subjected to suffering in pretrial detention.



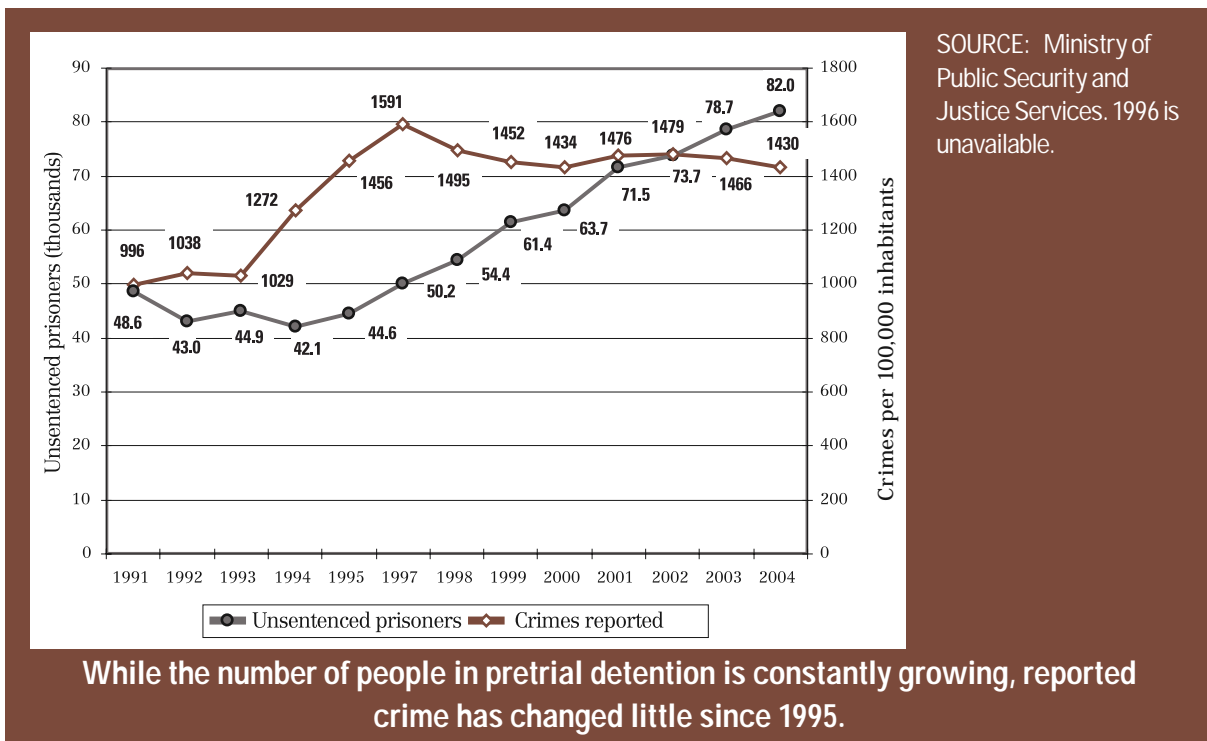
# MYTH 1:

## Pretrial detention reduces crime

According to criminal justice policies espoused by the Mexican authorities, incarcerating criminal suspects pretrial reduces crime in two ways. On the one hand, the “criminal” is precluded from committing further crimes—even though s/he has yet to be convicted of **any** crime, and under

the Constitution everyone is presumed innocent until found guilty by a court of law—and, on the other, a deterrent effect reduces the crime rate generally: upon realizing the risk of arrest and imprisonment, criminals or potential criminals opt to stop committing crimes.

Chart 3. Numbers of unsentenced prisoners and recorded crimes 1991-2003



The notion that pretrial detention reduces crime is disproved by the following indicator: **despite a steady increase in the pretrial detainee population over the last decade, the crime rate has remained at the same high level over the last decade** (Chart 3). In spite of an average annual growth of 10.4 percent in the number of pretrial detainees over eight years, the crime rate has not decreased significantly over this period.

Some argue that the increase in reported crime is not the result of an increase in actual crime, but of a decrease in crime **together with** an increased willingness to report crime. Statistical evidence, however, does not support this position. The number of unreported crimes in Mexico is huge. Only 34 percent of crimes committed in Mexico in 2001 were reported. In 2002, only 25 percent of crimes committed were reported according to the Instituto Ciudadano de Estudios Sobre la Inseguridad A.C. (ICESI). According to these figures, the willingness of citizens to report crime is actually decreasing. Consequently, the victimization rate, or the actual crime rate, is not decreasing but probably increasing.

If the number of prison inmates has doubled without a concomitant decrease in crime, then who is being incarcerated? An answer to this question will be attempted in the analysis of the third myth. For now, the critical point is that no evidence supports the view that the imprisonment of untried persons leads to a reduction in crime.

Furthermore, the Mexican state has focused substantial resources on combating organized crime, including many of those acts that have the greatest impact on society, such as kidnapping,

homicide, human trafficking, drug dealing, and vehicle theft. However, it has been unable to reduce significantly the activities of this criminal industry. Therefore, the fight against organized crime too, provides no evidence to suggest that extensive use of pretrial detention can reduce crime.



## MYTH 2:

### Pretrial detention makes citizens feel more secure

Mexico is presently undergoing a period of public protest and popular anxiety—largely a consequence of the increase in crime and growing public demand to tackle it. This has radicalized the criminal justice discourse of a significant sector of both the Mexican public and criminal justice policymakers. The limited tradition of a rights-based vocabulary in the Mexican criminal justice field, combined with high levels of violent crime, have significantly affected public opinion, such that many interpret court decisions to release persons awaiting trial (even on bail) as a sign of “impunity” or judicial corruption.

As a result of public pressure to punish lawbreakers, criminal justice policymakers have, over the last decade, legislated to increase the penalties imposed on convicted offenders and extended the list of crimes for which accused persons may not be released awaiting trial and/or sentence. This policy goal, which amounts to inflating the prison population by increasing the number of unsentenced prisoners, has resulted in nearly a doubling of the Mexican pretrial detention population in less than a decade, from 42,000 in 1994 to 82,000 in 2004 (Chart 3).

Mexican policymakers have used the growth in the prison population as a public relations tool in an attempt to improve citizens’ perception of safety, promote the credibility of the criminal justice system, and deter criminal activities. As a result, the right of accused persons to be released on bail has been

restricted, depriving thousands of people of the right to liberty accorded them by international legal norms.

Notwithstanding the state’s effort to publicize the increase in detentions, Mexican society continues to feel unsafe. Surveys show that a significant number of Mexicans feel vulnerable to crime, and sense that their property and personal safety are constantly threatened by criminals. Since 1995, a quarterly victimization survey has been conducted in the Federal District (in and around Mexico City). The survey results show that in February 2000, 55 percent of the respondents felt that public insecurity was Mexico City’s number one problem. In February 2001, 74 percent of survey respondents indicated that insecurity was their primary concern (*Reforma*, February 2001).

A national survey conducted in August 2002 showed that 44 percent of Mexicans feel “somewhat unsafe” or “very unsafe.” Moreover, 14 percent of households had at least one member who had been a victim of crime during the year prior to the survey. In a similar survey conducted in 2001, 47 percent of respondents said they felt “somewhat unsafe” or “very unsafe.” It is clear, therefore, that feelings of insecurity continue to be high nationwide (ICESI).

Notwithstanding the tougher, more draconian approach taken by criminal justice policymakers, citizens have a low opinion of the reliability and effectiveness of state institutions to protect them



from crime. Only 22.6 percent of respondents to a national opinion survey conducted in 2001 said they trust the police.<sup>1</sup> In another survey, on a confidence scale from 0 (lowest) to 10 (highest), the Mexican police force scored second worst at 4.4 (just above federal Congressmen).<sup>2</sup>

The National Survey on Public Insecurity in the States, undertaken by ICESI in 2000, found that the main reasons people did not report crime to the authorities were: “it’s a waste of time and/or time-consuming, involving difficult formalities” (50 percent); “lack of trust in the authorities” (19 percent); “minor crime” (9 percent); and “I had no evidence” (9 percent). In a survey conducted by the federal

government,<sup>3</sup> the main reasons respondents did not report crime were: 47 percent believed it was a waste of time (in other surveys a similar proportion of respondents worded their answer similarly: “because there is no point”);<sup>4</sup> 13 percent referred to the time-consuming and difficult formalities at the prosecutor’s office; 11 percent referred to a lack of trust and confidence; and 9 percent did not report crime out of fear of the aggressor.

**Based on the above evidence, it appears that the increased use of pretrial detention at the expense of the right to liberty and due process has not had a positive impact on Mexicans’ perceptions of their security.**

The government treats pretrial detention as preemptive punishment in an attempt to convince victims of crime and society at large that justice is being served. The use of pretrial detention to boost public confidence in the country’s ability to maintain order is a smokescreen that hides the most important problem: the inability of criminal justice institutions to respond to crime and the overwhelming reality that 97 percent of crimes committed go unpunished.<sup>5</sup>

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1 This includes both the 6.98 percent of respondents who said they had “much” confidence in the police and the 15.62 percent who “somewhat” trusted the police. “Encuesta Nacional sobre Cultura Política y Prácticas Ciudadanas 2001,” Ministry of the Interior and the Foundation Este País. Published in *Este País: Trends and Opinions*, no.137, Mexico City, August 2002, 24, data on page 13.

2 “Cultura de la Constitución en México: una encuesta nacional de actitudes, percepciones y valores,” coordinated by Hugo Concha, Héctor Fix Fierro, Julia Flores and Diego Valadés, National Autonomous University of Mexico, Electoral Court of the Federal Judicial Branch and Federal Regulatory Improvement Commission, Mexico City, 2004, 250, data on page 62.

3 Aguilar Zinser, Adolfo, “La cifra negra,” *Reforma*, Mexico City, Federal District, June 29, 2001.

4 Teresita Ramírez (Coordinator), *Trends and Empirical Causes of Violent Crime in Mexico (Final report)*, Funsalud and World Bank, discussion document, October 1999, 73. Available on the World Bank website.

5 Guillermo Zepeda Lecuona, *Crimen sin castigo: Procuración de Justicia Penal y ministerio público en México*, Fondo de Cultura Económica y Centro de Investigación para el Desarrollo (CIDAC), Mexico City, 2004, 220.

## MYTH 3:

### Pretrial detention is used only against “dangerous” individuals

Critics note that, as a security measure imposed before any conviction is rendered, pretrial detention is based on suspicions and subjective judgments about the potential danger that an accused might present. Mexico’s changing legal framework has brought about substantial restrictions to the fundamental right to liberty and the presumption of innocence. As noted, this legal framework is largely a consequence of public pressure on policymakers to provide greater public security.

It is necessary to balance the principle of individual liberty and the presumption of innocence with the need to maintain public order and security. To do so, flexible rules are needed that can be applied prudently and rationally, to permit judges to look at each concrete case in an individualized manner. However, many policymakers and legislators do not sufficiently trust judges to grant them such discretion, and so they have established sweeping categories of crimes, such as the catalogue of so-called “grave offenses,” which prohibit release before trial, effectively ensuring pretrial detention for many accused. These are applied indiscriminately by judges, who are barred from taking into account the particular details of each case and must apply pretrial detention solely on the basis of the offense with which the accused has been charged. In making a pretrial detention decision, judges may use their discretion only in cases of accused persons charged with a select list of misdemeanors or crimes considered as “non-grave.”

Mexico’s criminal justice system, like certain others, has opted for notions such as “grave offenses” and “dangerousness.” That is, an individual is viewed not only as “probably responsible” but also as “probably dangerous.” The concepts “gravity,” “dangerousness,” and “threat to society” remain juridically undefined and can therefore be influenced by the presumptions and popular feeling of the moment. As such, public pressure and the inability of the authorities to reduce crime rates have led policymakers to expand the scope of the concepts of “seriousness of the crime” and “danger to the community.” In this atmosphere of insecurity, judges often opt to further limit the right to liberty of the accused in the name of protecting society against the threat they supposedly pose, and in spite of their right to be presumed innocent.

An argument often used to justify the high number of people in pretrial detention is that if the number were reduced, society would face a serious threat and be subject to the threat of released detainees re-offending. It is also argued that if bail is not restricted, accused persons will abscond, thereby increasing the risk to society and to victims of crime.

However, an evaluation of the evidence used to test an accused person’s “probable dangerousness” reveals that not all detainees are as dangerous as the legal and judicial system assumes—a pervasive assumption that results in the widespread use of pretrial detention.



Five out of every one hundred people charged with “minor crimes,” who have the right to be released on bail, remain in pretrial detention because they are too poor to pay for their bail.

Approximately 15 percent of criminal cases do not reach the verdict phase. This generally happens when the accused is recognized by the judge or the prosecutor to be innocent (e.g. evidence is lost, charges are dropped, or it is determined that there is insufficient evidence to proceed with the case). Approximately one-third of cases do not reach the verdict phase because the victim pardons the accused—a possibility only in the case of certain misdemeanors or minor crimes involving property.

Of the 125,759 sentences handed down in local courts in 2002, 17,527 (14 percent) were acquittals. Some of these involved persons charged with “grave offenses,” such as homicide or rape. This is a significant figure. Pretrial detention in these cases was not only unnecessary but also unjust. Moreover, these people are not compensated for their expenses and deprivation of their liberty.

Among all the individuals tried for criminal offenses and sentenced by local courts in 2002, approximately 45 percent (56,000 persons) were held in pretrial detention. These are mainly individuals charged with a “grave offense” or considered “dangerous” to society or the victim (it is also significant that

approximately 5 percent of individuals who were eligible for bail remained in pretrial detention because they could not afford to pay their bail).<sup>6</sup>

**Of the 108,232 individuals convicted in 2002 (Chart 4), some two-thirds (69,396) were sentenced to less than three years imprisonment, despite a systematic increase in sentences, meaning that they must have been convicted of misdemeanors or so-called “minor crimes.”** Moreover, many of the persons sentenced to 3-5 years imprisonment (18,952 individuals) may have been convicted of offenses that are not considered “grave.”

As noted above, approximately 56,000 persons sentenced in local courts in 2002 were initially detained because they were accused of having committed a “grave offense,” or were deemed dangerous to society. Even if all 56,000 had been convicted (which was not the case), this would still mean that at least 19,000 of these detainees were sentenced to less than three years imprisonment, indicating that their crimes were not, in fact, “grave.”<sup>7</sup> In many of these cases it is likely that penalties would have been commuted to monetary sanctions, such as a fine or some other noncustodial sentence, which makes imprisonment all the more aberrant and unreasonable.

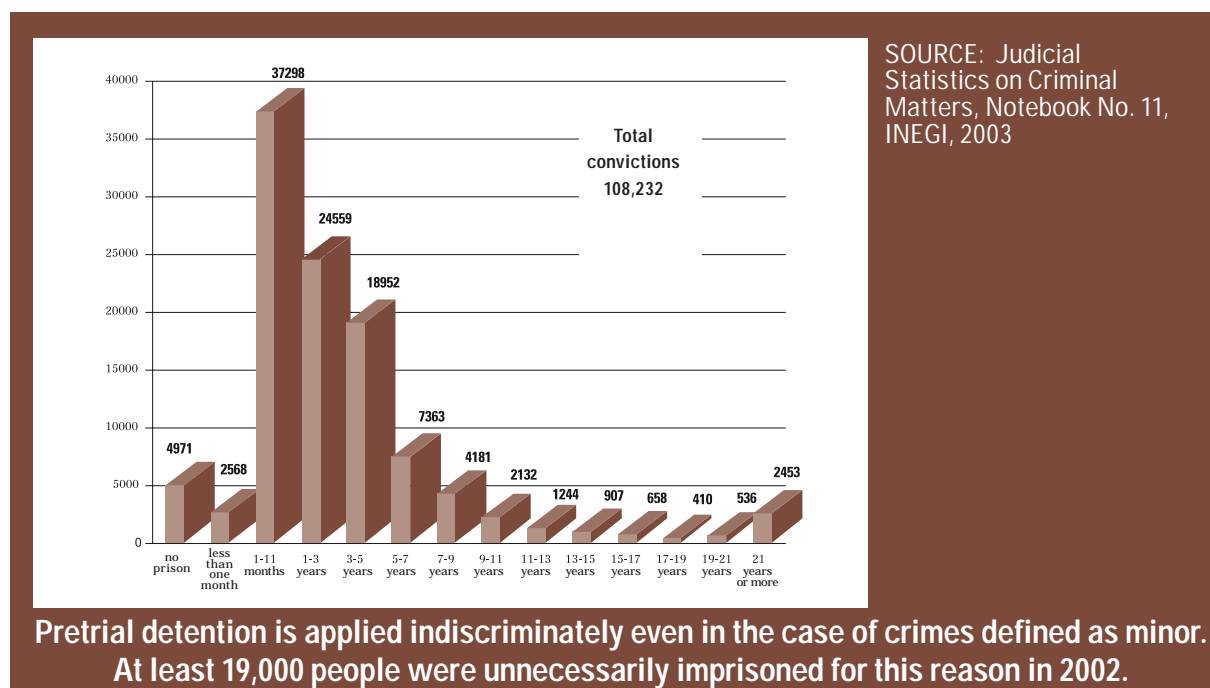
On balance, were these people really so dangerous? Do people have to wait until they are sentenced in order to have disproved those aggravating factor that had elevated their charge to a “grave” offense and led to their pretrial imprisonment? Was it not

<sup>6</sup> Ongoing research by the Justice Initiative aims to further refine this figure.

<sup>7</sup> This helps explain why once a sentence is rendered the majority of the detainees are released immediately, as they have already served their sentence.



Chart 4. Distribution of sentences imposed in 2002



possible to spare 19,000 human beings the bitter experience of suffering incarceration and further violation of their right to liberty while suspected of having committed a minor crime?

The argument that accused persons pose a risk of absconding is also inadequate to explain the imposition of pretrial detention on such a large number of persons. As has already been pointed out, **a significant number of accused are ultimately charged with minor crimes that may result in a fine or other commutable sentence. In these cases the risk of flight is minimal.**

Precautionary measures other than pretrial detention could be used, even for more serious crimes, when there is no risk to society or victims. Yet pretrial detention has become the most widely used precautionary measure in Mexico, and the country's legislation currently contemplates few alternatives for accused persons awaiting trial. It is important that Mexico incorporate into its domestic legislation alternatives to imprisonment, as recommended in the 1990 United Nations Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules). Such alternatives could include, among others, bail supervision, verbal warnings



or reprimands, prohibitions on travel without judicial approval, the obligation to participate in treatment and/or therapy programs, house arrest, and electronic monitoring devices.

With rare exceptions, Mexico's legislation does not provide for the use of electronic monitoring devices, and bail is often set at excessively high amounts. Even in cases in which bail is granted, there is no conscientious follow-up or supervision. There are, however, practical examples of successful bail supervision programs. Renace, a nongovernmental organization based in Monterrey, Nuevo Leon, offers legal defense and requests release on bail for persons suspected of being first-time, non-dangerous offenders, and those it has reason to believe are innocent. Bail has been granted to approximately half the detainees who have requested it with Renace's assistance. Renace then obtains funds to pay for

bail, when necessary, and provides assistance and support to the accused and his/her family to enable them to cope with the experience of enduring a trial. The results are very positive: of almost 2,000 individuals assisted by Renace in its first 10 years, only 4 percent of those released on bail failed to appear in court (i.e. absconded) and did not complete an agreed counseling regime. Only 2 percent of Renace's clients were charged with another crime subsequent to their release on bail. A full 90 percent of the beneficiaries of Renace's legal defense program were acquitted.

Renace's experience shows that careful selection of cases and the provision of constructive support and supervision to accused persons and their families make it possible to reduce substantially the courts' use of pretrial detention, while decreasing the risk of accused persons absconding, and mitigating the risks to society.

Lucía's husband refused to give her money to support their three children. One night Lucía took U.S. \$35 from her husband's wallet while he slept and bought food. Her husband was furious and filed a police report. Lucía was charged with theft and placed in pretrial detention. He refused to pay for her bail and she spent four months in prison. How can Lucía be a threat to Mexican society?

## MYTH 4:

### Pretrial detention ensures compensation for victims of crimes

**The rights of victims are an essential component of an effective criminal justice system. However, pretrial detention does not ensure compensation for victims of crime. The great economic costs of the trial and pretrial processes and the time lost from work frequently lead to the accused losing income and becoming impoverished.** In Mexico, only 10 percent of the prison population has access to work. As a result, prisoners often become destitute.

Furthermore, under Mexican law, if detainees wish to be released on bail they must guarantee “potential compensation” to the victim. Usually, they are not given the opportunity to compensate the victims of their crimes by paying reparations in installments—if they don’t have sufficient funds to pay off the compensation in its entirety, they are not released on bail. In many cases detainees do not have sufficient resources to guarantee potential damages in their entirety. Pretrial detention aggravates an accused’s inability to guarantee compensation to the victim, as it substantially increases the likelihood that s/he will end up financially insolvent.

With respect to the rights of victims, the authorities have begun to treat pretrial detention as preemptive

Under public pressure to show results in the fight against crime, the Mexican criminal justice system does not seek out the perpetrators of crimes, but those whom it can most easily punish.

punishment, in an attempt to convince victims and society at large that justice is being served. This use of pretrial detention—to satisfy a public demand for swift justice—comes dangerously close to acceding to public cries for revenge, offering as a spectacle the detention of a few to distract the public from the 97 percent of crimes in Mexico that remain unpunished.

Stripped of its myths and rhetoric, Mexican pretrial detention practices are revealed as irrational and indiscriminate. It is also used with increasing frequency. It has become the mainstay of a beleaguered criminal justice policy, applied by institutions overwhelmed by delinquency rates and citizens’ demands for security.

Pretrial detention is being misused to punish accused persons, often only on the basis of police assumptions and suspicions of their guilt. Many accused persons spend prolonged periods in pretrial detention, only to receive minor noncustodial sentences or to be acquitted altogether. Pretrial detention is often disproportionately imposed on the most disadvantaged and vulnerable members of society, such as the poor or disabled or ethnic minorities.

Faced with rising public pressure to deal effectively with crime and insecurity, Mexico’s criminal justice system and policymakers are seeking out not the perpetrators of crimes, but those whom it can most easily punish.



## **Open Society Institute**

The Open Society Institute, a private operating and grantmaking foundation, aims to shape public policy to promote democratic governance, human rights, and economic, legal, and social reform. On a local level, OSI implements a range of initiatives to support the rule of law, education, public health, and independent media. At the same time, OSI works to build alliances across borders and continents on issues such as combating corruption and rights abuses.

OSI was created in 1993 by investor and philanthropist George Soros to support his foundations in Central and Eastern Europe and the former Soviet Union. Those foundations were established, starting in 1984, to help countries make the transition from communism. OSI has expanded the activities of the Soros foundations network to other areas of the world where the transition to democracy is of particular concern. The Soros foundations network encompasses more than 60 countries, including the United States.

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While you read these lines, 82,000 people in Mexico are in prison waiting to be tried. These 82,000 prisoners are presumed innocent, yet they must suffer and endure the deprivation of their liberty in the Dante-esque conditions that prevail in Mexican prisons: a lawless environment of violence and disease. Every year, 40,000 of these detainees are freed immediately after their trial. Many of them, deprived of their liberty for months, emerge with their job, family, or health gone.

An argument often used to justify the high number of people in pretrial detention is that if the number were reduced, society would face a serious threat and be subject to the risk that released detainees might re-offend. It is also argued that if bail is not restricted, accused persons will abscond, thereby increasing the risk to society and to victims of crime.

Some justify the extensive use of pretrial detention in Mexico by claiming that imprisoning the accused

reduces the crime rate and lessens public insecurity. Pretrial detention, it is said, ensures that damages are redressed. It is applied only to individuals who, if set free, would present a danger, both to society and to their victims. In these pages, empirical evidence is brought to demonstrate the falsity of these claims, and to show that it is not necessary to deprive thousands of individuals of their liberty and economic activity (in addition to the economic and moral strain placed on their families) in order to protect society and the victims of crime.

Stripped of its myths and rhetoric, pretrial detention in Mexico is revealed as irrational and indiscriminate. It is also used with increasing frequency. It has become the mainstay of a beleaguered criminal justice policy, applied by institutions overwhelmed by increasing crime rates and public demand for security.

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## The Open Society Justice Initiative

The Open Society Justice Initiative, an operational program of the Open Society Institute, pursues law reform activities grounded in the protection of human rights, and contributes to the development of legal capacity for open societies worldwide. The Justice Initiative combines litigation, legal advocacy, technical assistance, and the dissemination of knowledge to secure advances in five priority areas: national criminal justice, international justice, freedom of information and expression, equality and citizenship, and anticorruption. Its offices are in Abuja, Budapest, and New York.

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